

FILED
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

7:13 FEB 28 A 11:49

UNITED STATES OF AMERICA

v.

Criminal No. JFM-96-0437

THOMAS W. SMITH, III

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MEMORANDUM

Defendant has filed a motion to appoint legal counsel for resolution of a motion that he has filed pursuant to *Pepper v. United States*, 131 S. Ct. 1229 (2011), for a reduction in sentence based upon post-sentencing rehabilitation.

Pepper v. United States does not provide a basis for defendant's motion. Fed. R. Crim. P. 35, which limits a court's jurisdiction to correct or reduce a sentence, controls. *Pepper* involved a situation where a defendant was resentenced on appeal. Therefore, the motion will be denied.

Date: 2/28/13


J. Frederick Motz
United States District Judge